



Rep. Jim Durkin

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LRB097 15595 AMC 67130 a

1 AMENDMENT TO HOUSE BILL 4116

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4116 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Governmental Ethics Act is amended  
5 by changing Sections 4A-101, 4A-102, 4A-106, and 4A-107 as  
6 follows:

7 (5 ILCS 420/4A-101) (from Ch. 127, par. 604A-101)

8 Sec. 4A-101. Persons required to file. The following  
9 persons shall file verified written statements of economic  
10 interests, as provided in this Article:

11 (a) Members of the General Assembly and candidates for  
12 nomination or election to the General Assembly.

13 (b) Persons holding an elected office in the Executive  
14 Branch of this State, and candidates for nomination or  
15 election to these offices.

16 (c) Members of a Commission or Board created by the

1 Illinois Constitution, and candidates for nomination or  
2 election to such Commission or Board.

3 (d) Persons whose appointment to office is subject to  
4 confirmation by the Senate and persons appointed by the  
5 Governor to any other position on a board or commission  
6 described in subsection (a) of Section 15 of the  
7 Gubernatorial Boards and Commissions Act.

8 (e) Holders of, and candidates for nomination or  
9 election to, the office of judge or associate judge of the  
10 Circuit Court and the office of judge of the Appellate or  
11 Supreme Court.

12 (f) Persons who are employed by any branch, agency,  
13 authority or board of the government of this State,  
14 including but not limited to, the Illinois State Toll  
15 Highway Authority, the Illinois Housing Development  
16 Authority, the Illinois Community College Board, and  
17 institutions under the jurisdiction of the Board of  
18 Trustees of the University of Illinois, Board of Trustees  
19 of Southern Illinois University, Board of Trustees of  
20 Chicago State University, Board of Trustees of Eastern  
21 Illinois University, Board of Trustees of Governor's State  
22 University, Board of Trustees of Illinois State  
23 University, Board of Trustees of Northeastern Illinois  
24 University, Board of Trustees of Northern Illinois  
25 University, Board of Trustees of Western Illinois  
26 University, or Board of Trustees of the Illinois

1 Mathematics and Science Academy, and are compensated for  
2 services as employees and not as independent contractors  
3 and who:

4 (1) are, or function as, the head of a department,  
5 commission, board, division, bureau, authority or  
6 other administrative unit within the government of  
7 this State, or who exercise similar authority within  
8 the government of this State;

9 (2) have direct supervisory authority over, or  
10 direct responsibility for the formulation,  
11 negotiation, issuance or execution of contracts  
12 entered into by the State in the amount of \$5,000 or  
13 more;

14 (3) have authority for the issuance or  
15 promulgation of rules and regulations within areas  
16 under the authority of the State;

17 (4) have authority for the approval of  
18 professional licenses;

19 (5) have responsibility with respect to the  
20 financial inspection of regulated nongovernmental  
21 entities;

22 (6) adjudicate, arbitrate, or decide any judicial  
23 or administrative proceeding, or review the  
24 adjudication, arbitration or decision of any judicial  
25 or administrative proceeding within the authority of  
26 the State;

1           (7) have supervisory responsibility for 20 or more  
2 employees of the State;

3           (8) negotiate, assign, authorize, or grant naming  
4 rights or sponsorship rights regarding any property or  
5 asset of the State, whether real, personal, tangible,  
6 or intangible; or

7           (9) have responsibility with respect to the  
8 procurement of goods or services.

9           (g) Persons who are elected to office in a unit of  
10 local government, and candidates for nomination or  
11 election to that office, including regional  
12 superintendents of school districts.

13           (h) Persons appointed to the governing board of a unit  
14 of local government, or of a special district, and persons  
15 appointed to a zoning board, or zoning board of appeals, or  
16 to a regional, county, or municipal plan commission, or to  
17 a board of review of any county, and persons appointed to  
18 the Board of the Metropolitan Pier and Exposition Authority  
19 and any Trustee appointed under Section 22 of the  
20 Metropolitan Pier and Exposition Authority Act, and  
21 persons appointed to a board or commission of a unit of  
22 local government who have authority to authorize the  
23 expenditure of public funds. This subsection does not apply  
24 to members of boards or commissions who function in an  
25 advisory capacity.

26           (i) Persons who are employed by a unit of local

1 government and are compensated for services as employees  
2 and not as independent contractors and who:

3 (1) are, or function as, the head of a department,  
4 division, bureau, authority or other administrative  
5 unit within the unit of local government, or who  
6 exercise similar authority within the unit of local  
7 government;

8 (2) have direct supervisory authority over, or  
9 direct responsibility for the formulation,  
10 negotiation, issuance or execution of contracts  
11 entered into by the unit of local government in the  
12 amount of \$1,000 or greater;

13 (3) have authority to approve licenses and permits  
14 by the unit of local government; this item does not  
15 include employees who function in a ministerial  
16 capacity;

17 (4) adjudicate, arbitrate, or decide any judicial  
18 or administrative proceeding, or review the  
19 adjudication, arbitration or decision of any judicial  
20 or administrative proceeding within the authority of  
21 the unit of local government;

22 (5) have authority to issue or promulgate rules and  
23 regulations within areas under the authority of the  
24 unit of local government; or

25 (6) have supervisory responsibility for 20 or more  
26 employees of the unit of local government.

1           (j) Persons on the Board of Trustees of the Illinois  
2 Mathematics and Science Academy.

3           (k) Persons employed by a school district in positions  
4 that require that person to hold an administrative or a  
5 chief school business official endorsement.

6           (l) Special government agents. A "special government  
7 agent" is a person who is directed, retained, designated,  
8 appointed, or employed, with or without compensation, by or  
9 on behalf of a statewide executive branch constitutional  
10 officer to make an ex parte communication under Section  
11 5-50 of the State Officials and Employees Ethics Act or  
12 Section 5-165 of the Illinois Administrative Procedure  
13 Act.

14           (m) Members of the board of commissioners of any flood  
15 prevention district created under the Flood Prevention  
16 District Act or the Beardstown Regional Flood Prevention  
17 District Act.

18           (n) Members of the board of any retirement system or  
19 investment board established under the Illinois Pension  
20 Code, if not required to file under any other provision of  
21 this Section.

22           (o) Members of the board of any pension fund  
23 established under the Illinois Pension Code, if not  
24 required to file under any other provision of this Section.

25           (p) Members of the investment advisory panel created  
26 under Section 20 of the Illinois Prepaid Tuition Act.

1           This Section shall not be construed to prevent any unit of  
2 local government from enacting financial disclosure  
3 requirements that mandate more information than required by  
4 this Act.

5           (Source: P.A. 96-6, eff. 4-3-09; 96-543, eff. 8-17-09; 96-555,  
6 eff. 8-18-09; 96-1000, eff. 7-2-10; 97-309, eff. 8-11-11.)

7           (5 ILCS 420/4A-102) (from Ch. 127, par. 604A-102)

8           Sec. 4A-102. The statement of economic interests required  
9 by this Article shall include the economic interests of the  
10 person making the statement as provided in this Section. The  
11 interest (if constructively controlled by the person making the  
12 statement) of a spouse or any other party, shall be considered  
13 to be the same as the interest of the person making the  
14 statement. Campaign receipts shall not be included in this  
15 statement.

16           (a) The following interests shall be listed by all  
17 persons required to file:

18           (1) The name, address and type of practice of any  
19 professional organization or individual professional  
20 practice in which the person making the statement was  
21 an officer, director, associate, partner or  
22 proprietor, or served in any advisory capacity, from  
23 which income in excess of \$1200 was derived during the  
24 preceding calendar year;

25           (2) The nature of professional services (other

1 than services rendered to the unit or units of  
2 government in relation to which the person is required  
3 to file) and the nature of the entity to which they  
4 were rendered if fees exceeding \$5,000 were received  
5 during the preceding calendar year from the entity for  
6 professional services rendered by the person making  
7 the statement.

8 (3) The identity (including the address or legal  
9 description of real estate) of any capital asset from  
10 which a capital gain of \$5,000 or more was realized in  
11 the preceding calendar year.

12 (4) The name of any unit of government which has  
13 employed the person making the statement during the  
14 preceding calendar year other than the unit or units of  
15 government in relation to which the person is required  
16 to file.

17 (5) The name of any entity from which a gift or  
18 gifts, or honorarium or honoraria, valued singly or in  
19 the aggregate in excess of \$500, was received during  
20 the preceding calendar year.

21 (b) The following interests shall also be listed by  
22 persons listed in items (a) through (f), item (l), ~~and~~ item  
23 (n), and item (p) of Section 4A-101:

24 (1) The name and instrument of ownership in any  
25 entity doing business in the State of Illinois, in  
26 which an ownership interest held by the person at the

1 date of filing is in excess of \$5,000 fair market value  
2 or from which dividends of in excess of \$1,200 were  
3 derived during the preceding calendar year. (In the  
4 case of real estate, location thereof shall be listed  
5 by street address, or if none, then by legal  
6 description). No time or demand deposit in a financial  
7 institution, nor any debt instrument need be listed;

8 (2) Except for professional service entities, the  
9 name of any entity and any position held therein from  
10 which income of in excess of \$1,200 was derived during  
11 the preceding calendar year, if the entity does  
12 business in the State of Illinois. No time or demand  
13 deposit in a financial institution, nor any debt  
14 instrument need be listed.

15 (3) The identity of any compensated lobbyist with  
16 whom the person making the statement maintains a close  
17 economic association, including the name of the  
18 lobbyist and specifying the legislative matter or  
19 matters which are the object of the lobbying activity,  
20 and describing the general type of economic activity of  
21 the client or principal on whose behalf that person is  
22 lobbying.

23 (c) The following interests shall also be listed by  
24 persons listed in items (g), (h), (i), and (o) of Section  
25 4A-101:

26 (1) The name and instrument of ownership in any

1           entity doing business with a unit of local government  
2           in relation to which the person is required to file if  
3           the ownership interest of the person filing is greater  
4           than \$5,000 fair market value as of the date of filing  
5           or if dividends in excess of \$1,200 were received from  
6           the entity during the preceding calendar year. (In the  
7           case of real estate, location thereof shall be listed  
8           by street address, or if none, then by legal  
9           description). No time or demand deposit in a financial  
10          institution, nor any debt instrument need be listed.

11           (2) Except for professional service entities, the  
12          name of any entity and any position held therein from  
13          which income in excess of \$1,200 was derived during the  
14          preceding calendar year if the entity does business  
15          with a unit of local government in relation to which  
16          the person is required to file. No time or demand  
17          deposit in a financial institution, nor any debt  
18          instrument need be listed.

19           (3) The name of any entity and the nature of the  
20          governmental action requested by any entity which has  
21          applied to a unit of local government in relation to  
22          which the person must file for any license, franchise  
23          or permit for annexation, zoning or rezoning of real  
24          estate during the preceding calendar year if the  
25          ownership interest of the person filing is in excess of  
26          \$5,000 fair market value at the time of filing or if

1 income or dividends in excess of \$1,200 were received  
2 by the person filing from the entity during the  
3 preceding calendar year.

4 For the purposes of this Section, the unit of local  
5 government in relation to which a person required to file under  
6 item (o) of Section 4A-101 shall be the unit of local  
7 government that contributes to the pension fund of which such  
8 person is a member of the board.

9 (Source: P.A. 96-6, eff. 4-3-09.)

10 (5 ILCS 420/4A-106) (from Ch. 127, par. 604A-106)

11 Sec. 4A-106. The statements of economic interests required  
12 of persons listed in items (a) through (f), item (j), item (l),  
13 ~~and~~ item (n), and item (p) of Section 4A-101 shall be filed  
14 with the Secretary of State. The statements of economic  
15 interests required of persons listed in items (g), (h), (i),  
16 (k), and (o) of Section 4A-101 shall be filed with the county  
17 clerk of the county in which the principal office of the unit  
18 of local government with which the person is associated is  
19 located. If it is not apparent which county the principal  
20 office of a unit of local government is located, the chief  
21 administrative officer, or his or her designee, has the  
22 authority, for purposes of this Act, to determine the county in  
23 which the principal office is located. On or before February 1  
24 annually, (1) the chief administrative officer of any State  
25 agency in the executive, legislative, or judicial branch

1 employing persons required to file under item (f) or item (l)  
2 of Section 4A-101 and the chief administrative officer of a  
3 board or panel described in item (n) or (p) of Section 4A-101  
4 shall certify to the Secretary of State the names and mailing  
5 addresses of those persons, and (2) the chief administrative  
6 officer, or his or her designee, of each unit of local  
7 government with persons described in items (h), (i) and (k) and  
8 a board described in item (o) of Section 4A-101 shall certify  
9 to the appropriate county clerk a list of names and addresses  
10 of persons described in items (h), (i), (k), and (o) of Section  
11 4A-101 that are required to file. In preparing the lists, each  
12 chief administrative officer, or his or her designee, shall set  
13 out the names in alphabetical order.

14 On or before April 1 annually, the Secretary of State shall  
15 notify (1) all persons whose names have been certified to him  
16 under items (f), (l), ~~and~~ (n), and (p) of Section 4A-101, and  
17 (2) all persons described in items (a) through (e) and item (j)  
18 of Section 4A-101, other than candidates for office who have  
19 filed their statements with their nominating petitions, of the  
20 requirements for filing statements of economic interests. A  
21 person required to file with the Secretary of State by virtue  
22 of more than one item among items (a) through (f) and items  
23 (j), (l), ~~and~~ (n), and (p) shall be notified of and is required  
24 to file only one statement of economic interests relating to  
25 all items under which the person is required to file with the  
26 Secretary of State.

1           On or before April 1 annually, the county clerk of each  
2 county shall notify all persons whose names have been certified  
3 to him under items (g), (h), (i), (k), and (o) of Section  
4 4A-101, other than candidates for office who have filed their  
5 statements with their nominating petitions, of the  
6 requirements for filing statements of economic interests. A  
7 person required to file with a county clerk by virtue of more  
8 than one item among items (g), (h), (i), (k), and (o) shall be  
9 notified of and is required to file only one statement of  
10 economic interests relating to all items under which the person  
11 is required to file with that county clerk.

12           Except as provided in Section 4A-106.1, the notices  
13 provided for in this Section shall be in writing and deposited  
14 in the U.S. Mail, properly addressed, first class postage  
15 prepaid, on or before the day required by this Section for the  
16 sending of the notice. Alternatively, a county clerk may send  
17 the notices electronically to all persons whose names have been  
18 thus certified to him under item (h), (i), or (k) of Section  
19 4A-101. A certificate executed by the Secretary of State or  
20 county clerk attesting that he or she has sent the notice by  
21 the means permitted by this Section constitutes prima facie  
22 evidence thereof.

23           From the lists certified to him under this Section of  
24 persons described in items (g), (h), (i), (k), and (o) of  
25 Section 4A-101, the clerk of each county shall compile an  
26 alphabetical listing of persons required to file statements of

1 economic interests in his office under any of those items. As  
2 the statements are filed in his office, the county clerk shall  
3 cause the fact of that filing to be indicated on the  
4 alphabetical listing of persons who are required to file  
5 statements. Within 30 days after the due dates, the county  
6 clerk shall mail to the State Board of Elections a true copy of  
7 that listing showing those who have filed statements.

8 The county clerk of each county shall note upon the  
9 alphabetical listing the names of all persons required to file  
10 a statement of economic interests who failed to file a  
11 statement on or before May 1. It shall be the duty of the  
12 several county clerks to give notice as provided in Section  
13 4A-105 to any person who has failed to file his or her  
14 statement with the clerk on or before May 1.

15 Any person who files or has filed a statement of economic  
16 interest under this Act is entitled to receive from the  
17 Secretary of State or county clerk, as the case may be, a  
18 receipt indicating that the person has filed such a statement,  
19 the date of such filing, and the identity of the governmental  
20 unit or units in relation to which the filing is required.

21 The Secretary of State may employ such employees and  
22 consultants as he considers necessary to carry out his duties  
23 hereunder, and may prescribe their duties, fix their  
24 compensation, and provide for reimbursement of their expenses.

25 All statements of economic interests filed under this  
26 Section shall be available for examination and copying by the

1 public at all reasonable times. Not later than 12 months after  
2 the effective date of this amendatory Act of the 93rd General  
3 Assembly, beginning with statements filed in calendar year  
4 2004, the Secretary of State shall make statements of economic  
5 interests filed with the Secretary available for inspection and  
6 copying via the Secretary's website.

7 (Source: P.A. 96-6, eff. 4-3-09; 96-1336, eff. 1-1-11.)

8 (5 ILCS 420/4A-107) (from Ch. 127, par. 604A-107)

9 Sec. 4A-107. Any person required to file a statement of  
10 economic interests under this Article who willfully files a  
11 false or incomplete statement shall be guilty of a Class A  
12 misdemeanor.

13 Except when the fees and penalties for late filing have  
14 been waived under Section 4A-105, failure to file a statement  
15 within the time prescribed shall result in ineligibility for,  
16 or forfeiture of, office or position of employment, as the case  
17 may be; provided, however, that if the notice of failure to  
18 file a statement of economic interests provided in Section  
19 4A-105 of this Act is not given by the Secretary of State or  
20 the county clerk, as the case may be, no forfeiture shall  
21 result if a statement is filed within 30 days of actual notice  
22 of the failure to file. The Secretary of State shall provide  
23 the Attorney General with the names of persons who failed to  
24 file a statement. The county clerk shall provide the State's  
25 Attorney of the county of the entity for which the filing of

1 statement of economic interest is required with the name of  
2 persons who failed to file a statement.

3 The Attorney General, with respect to offices or positions  
4 described in items (a) through (f) and items (j), (l), ~~and~~ (n),  
5 and (p) of Section 4A-101 of this Act, or the State's Attorney  
6 of the county of the entity for which the filing of statements  
7 of economic interests is required, with respect to offices or  
8 positions described in items (g) through (i), item (k), and  
9 item (o) of Section 4A-101 of this Act, shall bring an action  
10 in quo warranto against any person who has failed to file by  
11 either May 31 or June 30 of any given year and for whom the fees  
12 and penalties for late filing have not been waived under  
13 Section 4A-105.

14 (Source: P.A. 96-6, eff. 4-3-09; 96-550, eff. 8-17-09; 96-1000,  
15 eff. 7-2-10.)

16 Section 10. The Illinois Prepaid Tuition Act is amended by  
17 changing Sections 15, 30, and 35 as follows:

18 (110 ILCS 979/15)

19 Sec. 15. Creation of Illinois prepaid tuition program.  
20 There is created the Illinois prepaid tuition program to be  
21 administered by the Illinois Student Assistance Commission.  
22 This program is to be administered so that the full cost of  
23 tuition and mandatory fees at Illinois public universities and  
24 Illinois community colleges may be paid in advance of

1 enrollment through the prior purchase of an Illinois prepaid  
2 tuition contract. The Commission may enter into contracts as  
3 specifically authorized by the provisions of this Act for  
4 expenses associated with ~~as may be necessary to provide for~~  
5 administration of the program and shall develop and implement  
6 rules and regulations necessary for the efficient  
7 administration of the program.

8 All reasonable charges incidental to the administration of  
9 the program by the Commission shall be paid in the initial  
10 start-up period for the program's operation from the General  
11 Revenue Fund, pursuant to appropriations made for that purpose  
12 by the General Assembly. ~~Those charges and expenses in~~  
13 ~~subsequent years shall be paid exclusively from the Illinois~~  
14 ~~Prepaid Tuition Trust Fund established by Section 35 of this~~  
15 ~~Act.~~

16 (Source: P.A. 90-546, eff. 12-1-97.)

17 (110 ILCS 979/30)

18 Sec. 30. Investment Advisory Panel duties and  
19 responsibilities.

20 (a) Advice and review. The panel shall offer advice and  
21 counseling regarding the investments of the Illinois prepaid  
22 tuition program with the objective of obtaining the best  
23 possible return on investments consistent with actuarial  
24 soundness of the program. The panel is required to annually  
25 review and advise the Commission on provisions of the strategic

1 investment plan for the prepaid tuition program. The panel is  
2 also charged with reviewing and advising the Commission with  
3 regard to the annual report that describes the current  
4 financial condition of the program. The panel at its own  
5 discretion also may advise the Commission on other aspects of  
6 the program.

7 (b) Investment plan. The Commission annually shall adopt a  
8 comprehensive investment plan for purposes of this Section. The  
9 comprehensive investment plan shall specify the investment  
10 policies to be utilized by the Commission in its administration  
11 of the Illinois Prepaid Tuition Trust Fund created by Section  
12 35. The Commission may direct that assets of those Funds be  
13 placed in savings accounts or may use the same to purchase  
14 fixed or variable life insurance or annuity contracts,  
15 securities, evidence of indebtedness, or other investment  
16 products pursuant to the comprehensive investment plan and in  
17 such proportions as may be designated or approved under that  
18 plan. The Commission shall invest such assets with the care,  
19 skill, prudence, and diligence under the circumstances then  
20 prevailing that a prudent man acting in a like capacity and  
21 familiar with such matters would use in the conduct of an  
22 enterprise of a like character with like aims, and the  
23 Commission shall diversify the investments of such assets so as  
24 to minimize the risk of large losses, unless under the  
25 circumstances it is clearly prudent not to do so. Those  
26 insurance, annuity, savings, and investment products shall be

1 underwritten and offered in compliance with applicable federal  
2 and State laws, rules, and regulations by persons who are  
3 authorized thereunder to provide those services. The  
4 Commission shall delegate responsibility for preparing the  
5 comprehensive investment plan to the Executive Director of the  
6 Commission. Nothing in this Section shall preclude the  
7 Commission from contracting with a private corporation or  
8 institution to provide such services as may be a part of the  
9 comprehensive investment plan or as may be deemed necessary for  
10 implementation of the comprehensive investment plan,  
11 including, but not limited to, providing consolidated billing,  
12 individual and collective record keeping and accounting, and  
13 asset purchase, control, and safekeeping.

14 (c) Program management. The Commission may not delegate its  
15 management functions, but may arrange to compensate for  
16 personalized investment advisory services rendered with  
17 respect to any or all of the investments under its control an  
18 investment advisor registered under Section 8 of the Illinois  
19 Securities Law of 1953 or any bank or other entity authorized  
20 by law to provide those services. ~~Nothing contained herein~~  
21 ~~shall preclude the Commission from subscribing to general~~  
22 ~~investment research services available for purchase or use by~~  
23 ~~others. The Commission also shall have authority to compensate~~  
24 ~~for accounting, computing, and other necessary services.~~

25 (d) Annual report. The Commission shall annually prepare or  
26 cause to be prepared a report setting forth in appropriate

1 detail an accounting of all Illinois prepaid tuition program  
2 funds and a description of the financial condition of the  
3 program at the close of each fiscal year. Included in this  
4 report shall be an evaluation by at least one nationally  
5 recognized actuary of the financial viability of the program.  
6 This report shall be submitted to the Governor, the President  
7 of the Senate, the Speaker of the House of Representatives, the  
8 Auditor General, and the Board of Higher Education on or before  
9 March 1 of the subsequent fiscal year. This report also shall  
10 be made available to purchasers of Illinois prepaid tuition  
11 contracts and shall contain complete Illinois prepaid tuition  
12 contract sales information, including, but not limited to,  
13 projected postsecondary enrollment data for qualified  
14 beneficiaries.

15 (e) Marketing plan. Selection of a marketing agent for the  
16 Illinois prepaid tuition program must be approved by the  
17 Commission. At least once every 3 years, the Commission shall  
18 solicit proposals for marketing of the Illinois prepaid tuition  
19 program in accordance with the Illinois Securities Law of 1953  
20 and any applicable provisions of federal law. The entity  
21 designated pursuant to this paragraph shall serve as a  
22 centralized marketing agent for the program and shall have  
23 exclusive responsibility for marketing the program. No  
24 contract for marketing the Illinois prepaid tuition program  
25 shall extend for longer than 3 years. Any materials produced  
26 for the purpose of marketing the program shall be submitted to

1 the Executive Director of the Commission for approval before  
2 they are made public. Any eligible institution may distribute  
3 marketing materials produced for the program, so long as the  
4 Executive Director of the Commission approves the distribution  
5 in advance. Neither the State nor the Commission shall be  
6 liable for misrepresentation of the program by a marketing  
7 agent. In no event shall any expenses associated with  
8 marketing, advertising, or promotion of the Illinois prepaid  
9 tuition program be paid from the Illinois Prepaid Tuition Trust  
10 Fund.

11 (f) Accounting and audit. The Commission shall annually  
12 cause to be prepared an accounting of the trust and shall  
13 transmit a copy of the accounting to the Governor, the  
14 President of the Senate, the Speaker of the House, and the  
15 minority leaders of the Senate and House of Representatives.  
16 The Commission shall also make available this accounting of the  
17 trust to any purchaser of an Illinois prepaid tuition contract,  
18 upon request. The accounts of the Illinois prepaid tuition  
19 program shall be subject to annual audits by the Auditor  
20 General or a certified public accountant appointed by the  
21 Auditor General.

22 (Source: P.A. 96-1282, eff. 7-26-10.)

23 (110 ILCS 979/35)

24 Sec. 35. Illinois Prepaid Tuition Trust Fund.

25 (a) The Illinois Prepaid Tuition Trust Fund is created as

1 the repository of all moneys received by the Commission in  
2 conjunction with the Illinois prepaid tuition program. The  
3 Illinois Prepaid Tuition Trust Fund also shall be the official  
4 repository of all contributions, appropriations, interest and  
5 dividend payments, gifts, or other financial assets received by  
6 the Commission in connection with operation of the Illinois  
7 prepaid tuition program. All such moneys shall be deposited in  
8 the Illinois Prepaid Tuition Trust Fund and held by the State  
9 Treasurer as ex-officio custodian thereof, outside of the State  
10 Treasury, separate and apart from all public moneys or funds of  
11 this State.

12 All interest or other earnings accruing or received on  
13 amounts in the Illinois Prepaid Tuition Trust Fund shall be  
14 credited to and retained by the Fund. Moneys, interest, or  
15 other earnings paid into the Fund shall not be transferred or  
16 allocated by the Commission, the State Treasurer, or the State  
17 Comptroller to any other fund, nor shall the Governor authorize  
18 any such transfer or allocation, while any contracts are  
19 outstanding. The State Comptroller shall not offset moneys paid  
20 to institutions from the Illinois Prepaid Tuition Trust Fund  
21 (unless the Trust Fund moneys are used for child support). In  
22 addition, no moneys, interest, or other earnings paid into the  
23 Fund shall be used, temporarily or otherwise, for interfund  
24 borrowing or be otherwise used or appropriated except as  
25 expressly authorized in this Act.

26 The Illinois Prepaid Tuition Trust Fund and each individual

1 participant account that may be created in that Fund in  
2 conjunction with the Illinois prepaid tuition program shall be  
3 subject to audit in the same manner as funds and accounts  
4 belonging to the State of Illinois and shall be protected by  
5 the official bond given by the State Treasurer.

6 (b) The Commission from time to time shall direct the State  
7 Treasurer to invest moneys in the Illinois Prepaid Tuition  
8 Trust Fund that are not needed for immediate disbursement, in  
9 accordance with provisions of the investment plan approved by  
10 the Commission.

11 (c) The Executive Director of the Commission shall, at such  
12 times and in such amounts as shall be necessary, prepare and  
13 send to the State Comptroller vouchers requesting payment from  
14 the Illinois Prepaid Tuition Trust Fund for: (i) registration  
15 fee payments to eligible institutions on behalf of qualified  
16 beneficiaries of Illinois prepaid tuition contracts<sup>7</sup> and (ii)  
17 any other payments specifically authorized by the provisions of  
18 this Act associated with administration of the Illinois prepaid  
19 tuition program. Funds in the Illinois Prepaid Tuition Trust  
20 Fund must not be used to pay any portion of the salaries or  
21 benefits of employees of the Commission associated with the  
22 administration of the program, which instead must be paid from  
23 funds in the General Revenue Fund.

24 (d) The Governor shall indicate in a separate document  
25 submitted concurrent with each annual State budget the  
26 estimated amount of moneys in the Illinois Prepaid Tuition

1 Trust Fund which shall be necessary and sufficient, during that  
2 State fiscal year, to discharge all obligations anticipated  
3 under Illinois prepaid tuition contracts. The Governor also  
4 shall indicate in a separate document submitted concurrent with  
5 each annual State budget the amount of moneys from the Illinois  
6 Prepaid Tuition Trust Fund necessary to cover anticipated  
7 expenses associated with administration of the program. The  
8 Commission shall obtain concurrence from a nationally  
9 recognized actuary as to all amounts necessary for the program  
10 to meet its obligations. These amounts shall be certified  
11 annually to the Governor by the Commission no later than  
12 January 30.

13 During the first 18 months of operation of the Illinois  
14 prepaid tuition program, the Governor shall request an  
15 appropriation to the Commission from general funds sufficient  
16 to pay for start-up costs associated with establishment of the  
17 program. This appropriation constitutes a loan that shall be  
18 repaid to the General Revenue Fund within 5 years by the  
19 Commission from prepaid tuition program contributions.  
20 Subsequent program administrative costs shall be provided from  
21 reasonable fees and charges equitably assessed to purchasers of  
22 prepaid tuition contracts.

23 (e) If the Commission determines that there are  
24 insufficient moneys in the Illinois Prepaid Tuition Trust Fund  
25 to pay contractual obligations in the next succeeding fiscal  
26 year, the Commission shall certify the amount necessary to meet

1 these obligations to the Board of Higher Education, the  
2 Governor, the President of the Senate, and the Speaker of the  
3 House of Representatives. The Governor shall submit the amount  
4 so certified to the General Assembly as soon as practicable,  
5 but no later than the end of the current State fiscal year.

6 (f) In the event the Commission, with the concurrence of  
7 the Governor, determines the program to be financially  
8 infeasible, the Commission may discontinue, prospectively, the  
9 operation of the program. Any qualified beneficiary who has  
10 been accepted by and is enrolled or will within 5 years enroll  
11 at an eligible institution shall be entitled to exercise the  
12 complete benefits specified in the Illinois prepaid tuition  
13 contract. All other contract holders shall receive an  
14 appropriate refund of all contributions and accrued interest up  
15 to the time that the program is discontinued.

16 (Source: P.A. 96-1282, eff. 7-26-10.)

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law."